IN THE HIGH COURT FOR THE STATES OF PUNJAB & HARYANA AT CHANDIGARH

...

Criminal Revision No.1762 of 2007

Decided on : December 03, 2007

Gurmail Singh alias Bharpur Singh alias Bhura and another

... Petitioners

VERSUS

The State of Punjab

... Respondent

CORAM :
HON'BLE MR.JUSTICE A.N.JINDAL

Present: Mr.Mansur Ali, Advocate for the petitioners.

Mr.Satish Kumar Bhanot, Senior Deputy Advocate General for the respondent – State of Punjab.

A.N.JINDAL, J.-

The present revision petition has been filed against the judgment dated 12.7.2007 passed by Additional Sessions Judge, Patiala, vide which, appeal of Gurmail Singh alias Bharpur Singh alias Bhura and Karam Singh- petitioners (hereinafter referred to as the petitioners) against the order dated 5.12.2003 of Chief Judicial Magistrate, Patiala, convicting them and their co-accused for offences punishable under Sections 326, 325, 148, 324, 149 and 323 of the Indian Penal Code, was dismissed. However, sentence of imprisonment for offence under Section 326 IPC was reduced to one year from two years.

Facts, running in a narrow compass, are that on 24.11.1992, Rajinder Singh – complainant (hereafter referred to as the complainant) lodged a report (Ex.PA) in the Police Station Sanaur to the effect that on that day, when they were returning to their house from the fields, they were attacked by 6/7 persons near the bushes. The assailants while concealing their appearance were armed with Dang, Kirpan and Takuas. Three persons were identified as Karam Singh,, Bhura Singh (both petitioners), Ranjit Singh, while the others could be identified. Complainant side was given severe beatings. On raising hue and cry, the assailants fled away. The injured were medico-legally examined. Total five injuries were reported on the person of the complainant, out of which three injuries were opined to have been caused with blunt weapons, while the other injuries were with the sharp edged weapons. Another injured Dev Raj suffered nine injuries, out of which two were with sharp-edged weapons. On receipt of the above medico-legal report, formal FIR Ex.PW6/B was recorded. On 12.12.1992, after the declaration of injury No.3 on the person of the complainant as grievous by the doctor, Section 307 IPC was added. Site-plan was prepared, statements of the witnesses were recorded and the accused were arrested.

After completing the investigation, the police presented report under Section 173 of the Code of Criminal Procedure.

Finding prima facie case under Section 307/324/323 read with Section 34 IPC, the case was committed to the Court of Sessions, but the case was sent back as offence under Section 307 IPC was not found to have been committed. The accused were charge-sheeted accordingly, to which

they pleaded not guilty and claimed trial.

The prosecution in order to prove its case examined Dev Raj (PW1), Rajinder Singh – complainant (PW2), Dr.Harminder Kaur Sodhi (PW3), Dr.Jarnail Singh (PW4), Dr.Ramesh Sharma (PW5) and Lal Chand, retired DSP (PW6).

The petitioners denied all the incriminating circumstances appearing against them during their statements under Section 313 of the Code of Criminal Procedure and pleaded their false implication in the case due to previous enimity. Ultimately, the trial ended in conviction and the appeal also failed. Hence, this petition.

At the very outset, Mr.Mansur Ali, learned counsel appearing for the petitioners, straightway did not assail the judgment of conviction and limited prayer to take a lenient view has been made.

The petitioners as also the complainant are residents of the same village and, if at this stage, the petitioners are sent to jail to undergo their remaining sentence, it would revive their inimical feelings towards the complainant. Both the parties might have settled by now. Sword of domacles remained hanging over their heads during the pendency of the trial, appeal as also the present petition in this Court, since the fateful day of occurrence i.e, in the year 1992. Though, the longevity of the proceedings, may not be a cause to exonerate the petitioners, the same could be treated as a mitigating circumstance for reduction of the sentence.

In the above circumstances, this court feels that ends of justice would met, if the sentence of rigorous imprisonment is reduced to that already undergone, subject to deposit of Rs.25,000/-, each, by the

petitioners, towards compensation. Ordered accordingly.

The petition is dismissed with the above modification in the sentence.

(A.N.JINDAL)
JUDGE

The 3rd day of December, 2007
`gian'

To be Referred to Reporter - **Yes/ No**